

CA NO. 22-50048
IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STEVEN DUARTE,

Defendant-Appellant.

DC NO. 2:20-cr-00387-AB-1

**UNOPPOSED MOTION FOR AN EXTENSION OF TIME FOR THE
COURT-ORDERED EN BANC SUPPLEMENTAL BRIEFING**

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE ANDRE BIROTTE, JR.
United States District Judge

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This case is scheduled for en banc rehearing the week of December 9, 2024. This morning the en banc Court moved the oral argument from the week of September 23, 2024, and also ordered supplemental briefing, with Appellant's brief due on Tuesday, September 3, 2024, and the government's brief due on Thursday, October 3, 2024. Appellant Steven Duarte respectfully requests that the Court extend his deadline 14 days, to and including Tuesday, September 17, 2024, because his counsel leaves for a two-week family vacation tomorrow, and will not be able to work on the brief until his return. The government does not oppose this request, but asks for a reciprocal extension of its own briefing period to October

29, 2024, to account for periods of leave that some of its attorneys are planning to take in October.

This request is made under Federal Rule of Appellate Procedure 27 and Circuit Rules 27-1 and 31-2.2(b), and is based on the attached declaration of counsel.

Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: August 2, 2024

By /s/ Sonam Henderson

SONAM HENDERSON
Deputy Federal Public Defender
Attorney for Defendant-Appellant

DECLARATION OF SONAM HENDERSON

I, Sonam Henderson, hereby declare:

I am a Deputy Federal Public Defender in the Central District of California, and I represent appellant Steven Duarte. I request a 14-day extension of time to file his supplemental en banc brief, from the original September 3, 2024, date that the Court ordered this morning to September 17, 2024. I further propose that the government's deadline be reciprocally extended to October 29, 2024.

This is my first request for an extension, all transcripts have been ordered, and no reporter is in default. Mr. Duarte is in a halfway house finishing out his term of BOP custody in this case; his expected release date is September 23, 2024.

As this Court is aware, the panel issued its opinion on May 9, 2024, holding that 18 U.S.C. § 922(g)(1) was unconstitutional as applied to Mr. Duarte in light of *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022). See *United States v. Duarte*, 101 F.4th 657 (9th Cir. 2024). On July 17, 2024, this Court issued an order granting en banc rehearing. En banc oral argument was originally scheduled for the week of September 23, 2024. This morning, however, the Court moved oral argument to the week of December 9, 2024, and ordered the parties to submit supplemental briefing addressing two issues: (1) the impact of *United States v. Rahimi*, 602 U.S. ___, 144 S. Ct. 1889 (2024), on the issues presented in this case; and (2) whether this case should be remanded to the district court for further proceedings. The Court gave me a month to submit my brief,

with a due date of September 3, 2024. It gave the government another month after that, to October 3, 2024, to file its response.

However, I am leaving on a long-planned, prepaid two-week family vacation tomorrow morning. I will be traveling with two young children, and for a significant portion of the trip I will be the only parent on hand. Because of this, I do not anticipate being able to complete any meaningful amount of work while we are traveling. And when I return, I have work in other cases waiting for me, including most immediately the opening brief in *United States v. Montejano*, CA No. 24-1649, which is due on August 23, 2024, and which I plan to file on or before that date.

The issues on which the Court has asked for supplemental briefing are important and, at least in terms of *Rahimi*, under discussion in courts around the country. They will require research and considered analysis. They deserve my full attention and the full 30-day period that the Court originally allotted for their briefing. Accordingly, I ask the Court to extend my deadline by two weeks, to September 17, 2024, to account for the two weeks that I will be gone on vacation. I have been diligent in this case, and I fully expect to file the brief by the requested date.

I have consulted about this request with Assistant United States Attorney David Friedman, who is chief of criminal appeals for the United States Attorney's Office for the Central District of California, and one of the attorneys representing the government in this matter. He informed me that the government has no objection to this request. He additionally requested that I propose that the government's deadline be extended to October 29, 2024, to account for periods of leave that the government attorneys working on this case have planned for October.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on August 2, 2024, in Altadena, California.

By /s/ Sonam Henderson

SONAM HENDERSON

Deputy Federal Public Defender